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Message Text

CONFIDENTIAL

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44
ACTION EB-07

INFO OCT-01 SS-15 ISO-00 SP-02 L-02 INR-07 INRE-00 SSO-00

RSC-01 /035 W
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O 191456Z JAN 75
FM AMEMBASSY THE HAGUE
TO SECSTATE WASHDC IMMEDIATE 5033
INFO AMEMBASSY OSLO IMMEDIATE

C O N F I D E N T I A L THE HAGUE 0258

STADIS//////////////////////////////////

EB FOR ASSISTANT SECRETARY ENDERS

OSLO FOR DEPUTY ASSISTANT SECRETARY WALDMANN

E.O. 11652: GDS
TAGS: EAIR, NL
SUBJECT: CIVAIR: KLM FILINGS

REF: STATE 12598, THE HAGUE 0257

1. FOLLOWING RECEIPT OF TELEGRAM REPORTING YOUR CONVERSATION WITH VAN AERSSEN (STATE 12598), I TELEPHONED TRANSPORT MINISTER WESTERTERP AT HOME LATE JANUARY 18 TO RESPOND TO HIS LETTER TO ME OF JANUARY 17 (HAGUE 0257).

2. IN VIEW OF REQUEST THE DUTCH ARE MAING FOR INCLUSION OF ARTICLE 13 IN THE MEANING OF "EXHAUSTION OF NEGOTIATIONS" AND WHAT I SENSE IS OUR INTEREST IN NOT HAVING IT SO INCLUDED, I PUSHED FOR SOME INTERMEDIATE SOLUTION, FIRST TELLING WESTERTERP THAT ARBITRATION WAS NOT WITHIN THE PURVIEW OF THE SECRETARY'S ASSURANCES TO FOREIGN MINISTER VAN DER STOEL, AND THEN SUGGESTING THAT KLM FILE ITS SCHEDULES "WITHOUT HREJUDICE" TO WHATEVER LEGAL RIGHTS IT MIGHT PRESENTLY HAVE TO OPPOSE POSSIBLE CAB ACTION PURSUANT TO SECTION 213.

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3. WESTERTERP HAD NOT YET HAD A REPORT ON VAN AERSSEN'S

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MEETING WITH YOU NOR HAD HE RECEIVED COPY OF THE SECRETARY'S LETTER TO VAN DER STOEL REFERRED TO IN REFTEL. (WOULD APPRECIATE RECEIVING SOONEST TEXT OF LETTER WHEN DELIVERED.) WESTERTERP INDICATED THAT HE ALSO WAS LOOKING FOR A SOLUTION TO THE ISSUE. HE SAID, NONETHELESS, THAT SINCE THE CAB ORDER FOR KLM TO FILE HAD BEEN BASED ON THE BREAKDOWN OF NEGOTIATIONS, HE PRESUMED THAT SECRETARY'S AGREEMENT WITH VAN DER STOEL TO RESUME TALKS WAS "NEW FACT" WHICH CAB SHOULD HAVE TAKEN INTO CONSIDERATION AND PROVIDED THE BASIS FOR CAB TO HAVE WITHDRAWN OR PERHAPS SUSPENDED ITS REQUEST FOR FILING. HE SAID THAT KLM EITHER HAS SENT OR IS PLANNING TO SEND ON JANUARY 20 A LETTER TO CAB SAYING AGAIN THAT IT DOES NOT PLAN TO FILE. HE MAINTAINED, FOR WHAT IT IS WORTH, THAT KLM IS AN INDEPENDENT BODY AND NOT NECESSARILY RESPONSIVE TO GOVERNMENT'S DESIRES. HE IS MEETING WITH HIS CIVIL AVIATION ADVISERS THE MORNING OF JANUARY 20 TO REVIEW THE PROBLEM AND SAID HE WOULD SEE WHETHER SOME FORMULA SUCH AS SUGGESTION OF FILING "WITHOUT PREJUDICE" WAS FEASIBLE.

4. EXPECT BY COB JANUARY 20 TO HAVE BEEN IN CONTACT WITH WESTERTERP EITHER BY TELEPHONE OR IN PERSON AND WE THEN WILL BE IN A BETTER POSITION TO ASSESS KLM FILING SITUATION.

5. COMMENT: WESTERTERP APPEARS GENUINELY TO BE TRYING TO FIND A SOLUTION. IF "WITHOUT PREJUDICE" DOES NOT WORK, PERHAPS ANOTHER WAY TO RESOLVE MATTER, WITHOUT SPECIFICALLY ADDRESSING ISSUE WHETHER ARBITRATION IS INCLUDED IN SECRETARY'S ASSURANCE, WOULD BE TO PROVIDE TIME LIMIT, SUCH AS THREE MONTHS OR 120 DAYS, RATHER THAN GEARING THE WITHHOLDING BY US OF UNILATERAL ACTION TO "EXHAUSTION OF NEGOTIATIONS." IF DEPARTMENT CONCURS, I CAN FLOAT THIS IDEA WITH WESTERTERP.
GOULD

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